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Joshua David Harding

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
The Honorable Mary K. Dimke

United States of America,

Plaintiff,

v.

Joshua David Harding,

Defendant.

No. 1:24-CR-2014-MKD-1

**Defendant's Sentencing
Memorandum**

Joshua David Harding committed a serious offense and is facing a long term of imprisonment. He is 44 years old and is autistic. For most of his life, Mr. Harding has struggled with social interactions, isolation, depression, and anxiety. As young boy and teenager, he struggled in school and was bullied because of his appearance and social awkwardness. His anxiety made it “impossible for him to stay” in school. [ECF No. 43]. Now, as an adult, Mr. Harding prefers to be alone due to his social anxiety, and “it is difficult to leave his house due to his anxiety.” *Id.* at ¶67.

1 Imprisonment will be difficult for Mr. Harding because of his social anxiety
2 and depression. He is not used to being around people and does not communicate
3 well with people, so Mr. Harding will likely struggle in prison. Even though he was
4 only in custody for a short time after his arrest for this offense, he suffered a panic
5 attack at the Yakima County Jail. Mr. Harding's sister, "is fearful that someone will
6 misinterpret him [Mr. Harding] in some way, and he will be hurt," while incarcerated.
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8 Therefore, considering the § 3553(a) factors, a long-term of imprisonment for
9 Mr. Harding is unnecessary to meet the goals of sentencing.
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11 **I. Base Offense Level Enhancements.**

12 Mr. Harding had no objections to the guideline calculations in the Presentence
13 Investigation Report. [ECF No. 44].
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15 **II. Departures.**

16 Mr. Harding is not seeking a downward departure.

17 **III. Sentencing Under 18 U.S.C. § 3553(a)**

18 In determining an appropriate sentence, the Court must consider the
19 sentencing factors of § 3553(a), as well as the nature and circumstances of the offense
20 and the characteristics of the defendant in fashioning a sentence. The sentence
21 imposed by the Court must be "sufficient, but not greater than necessary to
22 accomplish the goals of sentencing." *Kimbrough v. United States*, 552 U.S. 85 (2007).
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24 Under the Rule 11(c)(1)(C) plea agreement, Mr. Harding requests the Court impose a
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1 sentence of 24 months imprisonment and a 5-year term of supervised release. Such a
2 sentence is sufficient but not greater than necessary to meet the goals of sentencing.

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4 **1. Nature and Circumstances of the Offense.**

5 In July of 2023, an online investigation was conducted into Peer to Peer (P2P)
6 file sharing programs for the possession and distribution of child pornography. Law
7 enforcement conducted suspected child pornography downloads from a computer
8 with a specific IP address in Yakima, Washington. Review of the downloads by law
9 enforcement revealed images and videos of child pornography. ECF No. 43 at ¶¶12-
10 22].

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12 After further investigation, law enforcement determined the IP address was
13 assigned to Mr. Harding at a residence in Yakima. A search warrant was executed at
14 Mr. Harding's residence on August 17, 2023. Mr. Harding admitted to law
15 enforcement that he downloaded files with child pornography. *Id.* Several devices
16 were seized from the residence and searched. From the discovery, it appears the
17 images and videos had been deleted, but through forensic analysis of the devices law
18 enforcement was able to recover images and videos of child pornography.
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21 **2. History and Characteristics of Joshua David Harding.**

22 When Mr. Harding was born, his parents could not take care of him due to
23 their mental impairments. His aunt and uncle began to raise Mr. Harding when he
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1 was 5 days old and officially adopted him when he was 2 years old. *Id.* at ¶60. After
2 his adoption, Mr. Harding’s biological parents had no further contact with him. *Id.*

3 After years of raising and caring for Mr. Harding, Ms. Harding describes her
4 son as “the saddest and loneliest” person she has ever known. He is autistic and
5 prefers to isolate himself. Ms. Harding indicated Mr. Harding has suffered from
6 depression and anxiety for most of his life. *Id.* When he was in school, Mr. Harding
7 was picked on and, as a result, refused to complete his education. He has difficulty
8 interacting with people, and at family events he would stay to himself and not interact
9 with others. *Id.* His sister, Ms. Kountz, described Mr. Harding as exhibiting autistic
10 behaviors as a boy; and, that he rarely communicates with others and isolates himself
11 in his home. *Id.* at ¶62.

12 Mr. Harding’s mother, sister and nephew submitted letters on his behalf. *See*
13 *Declaration of Defense Counsel in Support of Sentencing Memorandum (“Dec.”): Exhibit A –*
14 *Letters of Support.* Ms. Harding indicated Mr. Harding’s:

15 “... school years were very difficult. He was often bullied and teased by the
16 other children. We took him to counseling through the years as all this led to
17 anxiety and depression. Always looking for help but finding little. At this time
18 there was no Autism diagnosis”.

19 *Dec.: Exhibit A-1 (Letter from Joy Harding)*

20 Mr. Harding’s sister describes Mr. Harding as “mild mannered” and has “never
21 known him to be violent in any way.” *Dec.: Exhibit A-2 (Letter from Loey Kountz).* Ms.
22 Kountz also indicates Mr. Harding “never leaves the house with the exception of
23 Defendant’s Sentencing
24 Memorandum: 4

1 medical and mental health appointments” and doesn’t drive because he doesn’t have a
2 license. *Id.*

3 Mr. Harding’s nephew, Jake Pister, recalls Mr. Harding as avoiding children and
4 people in general. *Dec: Exhibit A-3 (Letter from Jake Pister)*. Mr. Pister indicated: “I
5 tried to be around him [but he] never wanted to be around me, my younger brother,
6 or my younger cousin. He avoided children and people in general, even family
7 members.” *Id.* The only person Mr. Harding communicated with was his father, but
8 after his father passed away in 2008, Mr. Harding “regressed back to not being around
9 people and not really responding to greetings except on rare occasions.” *Id.*
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12 Even though Mr. Harding has struggled most of his life, he did recall enjoying
13 their family camping and fishing trips. [ECF No. 43 at ¶58]. Mr. Harding felt his
14 parents loved him, cared for him, and provided for his needs. *Id.* Photos of Mr.
15 Harding and his family show them happy together, and Mr. Harding having fun. *Dec.:*
16 *Exhibit B (Photos)*. His anxiety, however, affected him throughout his life. Growing
17 up, he didn’t make eye contact with people and wanted to “go home and hide.” He
18 didn’t have many friends and those feelings he had as a child “carried into adult life.”
19 Mr. Harding has a difficult time leaving his home due to his anxiety. He recalls not
20 leaving his house to be with his father at the hospital before he died because of his
21 anxiety. *Id.* at ¶66.
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1 To help him with his mental health issues, Mr. Harding has been participating
2 in counseling since he was 5. He's also been taking medication for his depression and
3 anxiety since he was a teenager. Currently, Mr. Harding attends mental health
4 services. *Id.* at ¶¶s67,69. Because of his social anxiety, Mr. Harding has been
5 receiving social security disability benefits since he was about 20 or 21. *Id.* at ¶74.

7 Mr. Harding's history also shows he has no criminal history, and he doesn't
8 abuse drugs or alcohol. This offense is his only criminal offense, and his family is
9 surprised by his conduct. *Id.* at ¶¶s61, 64. Ms. Harding indicated to the probation
10 officer that Mr. Harding "feels terrible, awful and like dirt" for what he did, and wants
11 to participate in sex offender treatment. *Id.* at ¶61.

13 Mr. Harding underwent a mental health and psychosexual evaluation
14 conducted by Dr. Robert L. Cosby. *See Dec: Exhibit C (Evaluation Report by Dr. Robert*
15 *L. Cosby) (Filed Under Seal).* Dr. Cosby met with Mr. Harding on August 1, 2024 and
16 evaluated Mr. Harding. After the initial report was generated on August 23, 2024, Dr.
17 Cosby again met with Mr. Harding on September 3, 2024. The reason Dr. Cosby met
18 with Mr. Harding a second time, was to obtain additional information from Mr.
19 Harding he had not previously disclosed. *Id.*

22 At his second meeting with Dr. Cosby, Mr. Harding was more open about his
23 history of and interest in child pornography as noted in the evaluation. *Id.* at pgs. 9-
24 11. During this meeting, Mr. Harding described his struggles with child pornography

1 and that “he has always been ashamed and embarrassed of his interest . . .” and was
2 ready to participate in sex offender treatment. *Id.* Mr. Harding was diagnosed with
3 disorders related to pedophilia, as well as social anxiety disorder, and autism spectrum
4 disorder. *Id.* at pg. 20.

6 Based on his evaluation of Mr. Harding, Dr. Cosby concluded that Mr.
7 Harding’s risk for future sexual misconduct is low. Participation in sex offender
8 treatment and cognitive-behavioral therapies (CBT) would lower Mr. Harding’s
9 recidivism risk. Dr. Cosby noted that CBT is “effective at improving self-esteem
10 issues and social deficits that partly underlie his [Mr. Harding] sex offenses.” *Id.* at pg.
11 27. Dr. Cosby also pointed to other factors that would assist Mr. Harding from
12 avoiding future criminal activity such as: family support, the lack of antisocial
13 behaviors, no substance abuse issues, the ability to learn and retain information taught
14 in treatment, and compliance with supervision. *Id.* at pgs. 27-28.

17 Mr. Harding committed a serious offense, but considering the § 3553(a) factors,
18 it is clear a long term of imprisonment for Mr. Harding is unnecessary to meet the
19 goals of sentencing. He has no criminal history, he does not abuse drugs or alcohol,
20 and he suffers from significant mental health disorders, for which he receives
21 disability benefits. Mr. Harding rarely leaves his home because of his social anxiety
22 disorder, and he prefers to be alone and not interact with people. He is currently in
23 mental health counseling and takes medication for his anxiety and depression. Dr.
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1 Cosby notes that Mr. Harding's risk for future sexual misconduct is low, and that
2 treatment and therapy will lower the risk recidivism. Thus, a long sentence is not
3 necessary to meet the goals of sentencing.
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5 Dr. Cosby also indicated in his evaluation that individuals like Mr. Harding do
6 not adapt well to a prison environment and are targets for antisocial and manipulative
7 inmates. Because of his disorders, Mr. Harding is likely to misinterpret situations with
8 individuals which could lead to physical altercations. *Id.* at 28. A long prison sentence
9 for Mr. Harding, then, is potentially dangerous for him. Therefore, considering Mr.
10 Harding's history and characteristics, a sentence of 24 months years is sufficient but
11 not greater than necessary to meet the goals of sentencing under 18 U.S.C. § 3553(a).
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13 **Conclusion.**
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15 Mr. Harding requests the Court impose a sentence of 24 months imprisonment
16 and 5 years of supervised release.
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Dated: December 30, 2024.

Respectfully Submitted,

s/Alex B. Hernandez, III

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CERTIFICATE OF SERVICE

I certify that on December 30, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to: Letitia Alberta Sikes, Assistant United States Attorney, and Carrie A. Valencia, United States Probation Officer.

s/Alex B. Hernandez, III
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